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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/083,601	05/22/1998	CHRISTOPH E. SCHEURICH	INTL0045USP5	4253

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EXAMINER

AN, SHAWN S

ART UNIT PAPER NUMBER

2613

DATE MAILED: 02/03/2005

28

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/083,601

Applicant(s)

SCHEURICH ET AL.

Examiner

Shawn S An

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Request for Continued Examination

1. The request filed on 11/22/04 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/083,601 is acceptable and a RCE has been established. An action on the RCE follows.

Response to Amendment

2. As per Applicant's instructions in Paper 27 as filed on 11/22/04, claims 1-38 have been canceled, and claims 39-56 have been newly added.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 39, 41, 43, 45, 47, 49, 51, 53, and 55 are rejected under 35 U.S.C. 102(e) as being anticipated by Thro et al (6,037,991).

Regarding claims 39, 45, and 51, Thro et al discloses a method, computer storage medium (program instructions), and a computer system comprising:
a processor to execute the driver program for:

receiving in the driver program executed by the computer (Fig. 2, 205) a first request generated by an application program executed by the computer for a frame rate and a second request generated by the application program for a resolution (abs.), the first request and the second request associated with communication between a camera (Fig. 1, 116) and the computer (205); and

using the driver program to:

evaluate a bandwidth available for the communication between the camera and the computer (col. 4, lines 3-23), and

comply with the first request (priority, frame rate) and based on the evaluation of the available bandwidth, selectively not comply with the second request (secondary priority, resolution) (col. 4, lines 3-36).

Regarding claims 41, 47, and 53, Thro et al discloses submitting communication requests to a bus interface of the computer (205, also inherency emphasized), each request being associated with different bandwidth (inherently, depends on the (amount) data transfer rate) (Fig. 3, 305), and based on the response of the bus interface to the communication requests, determining available bandwidth (col. 4, lines 3-23).

Regarding claims 43, 49, and 55, Thro et al discloses, wherein non-compliance with the second request (resolution) comprises adjusting the resolution (higher the transmission frame rate, the lower the resolution) different than the second request (Fig. 4, 409; col. 11, lines 6-15).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 40, 42, 44, 46, 48, 50, 52, 54, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thro et al (6,037,991).

Regarding claims 40, 46, and 52, Thro et al does not specifically disclose intermittently checking the available bandwidth and determining whether to comply with the second request (resolution) to accommodate changes in the bandwidth.

However, Thro et al teaches receiving video information intermittently from each selected video device, (col. 10, lines 47-49), and checking the available bandwidth and determining whether to comply with the second request (resolution) to accommodate changes in the bandwidth (col. 4, lines 3-41). Note: the higher the transmission frame rate, the lower the resolution.

Therefore, it would have been obvious to a person of ordinary skill in the relevant art employing Thro et al's teaching so as to intermittently check the available bandwidth and determine whether to comply with the second request to accommodate changes in the bandwidth to ensure that all of the transmitted video data does not exceed the maximum capacity of the bandwidth of the communication resource.

Regarding claims 42, 48, and 54, Thro et al discloses progressively using the bus (interface) requests to request more bandwidth (205, inherency emphasized, depends on the (amount) data transfer rate), and submitting the communication requests (Fig. 3, 305; col. 4, lines 3-23).

Thro et al does not specifically disclose submitting the communication requests for larger bandwidths until the bus interface denies one of the communication requests.

However, the Examiner takes official notice that it is well known in a communication system (software) to deny the communication requests based on the bandwidth constraints (e.g. system (program) message).

Therefore, it would have been obvious to a person of ordinary skill in the relevant art incorporating the teachings associated with the official notice so as to deny/refuse one of the communication requests based on the bandwidth constraints to ensure that all of the transmitted video data does not exceed the maximum capacity of the bandwidth of the communication resource.

Regarding claims 44, 50, and 56, Thro et al does not specifically disclose adjusting the resolution based at least in part on a determination of a scaling capability of the camera.

However, the Examiner takes official notice that a camera comprising a scaling capability is conventionally well known in the art.

Therefore, it would have been obvious to a person of ordinary skill in the relevant art incorporating the teachings associated with the official notice so as to adjust the resolution based at least in part on a determination of the scaling capability of the camera so as to ensure all of the transmitted video data meets the client's expectations, and does not exceed the maximum capacity of the bandwidth of the communication resource.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to *Shawn S. An* whose telephone number is 703-305-0099. The Examiner can normally be reached on Flex hours (10).

8. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSA 
Primary Patent Examiner

2/1/05